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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/740,554	12/20/2000	Georg Domenig		4501

7590 08/30/2002

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EXAMINER

STRIMBU, GREGORY J

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 08/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/740,554

Applicant(s)

DOMENIG ET AL.

Examiner

Gregory J. Strimbu

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 December 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

Drawings

The drawings are objected to because the applicant has included two figures labeled figure 3. Additionally, figures 2-4 are objected to because they include superfluous lettering such as "Top". A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

The abstract of the disclosure is objected to because "the posts" on lines 3-4 is confusing since it is unclear if the posts comprise the post arrangement or are in addition to the post arrangement. The abstract is also objected to because "a second upper post . . . of a first vertical post" on lines 6-7 is confusing since it is unclear if the posts comprise the post arrangement or are in addition to the post arrangement. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

Claims 4-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "post means" on lines 1-2 of claim 4 render the claims indefinite because the applicant has attempted to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is

specified by the word(s) preceding or following "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967). Recitations such as "the post" on lines 3-4 of claim 4 render the claims indefinite because they lack antecedent basis.

Recitations such as "a cylindrically formed segment of flat metallic material" on line 2 of claim 5 render the claims indefinite because it is unclear what the applicant is attempting to set forth. How can a segment be both flat and cylindrical? Recitations such as "a hub" on line 2 of claim 11 render the claims indefinite because it is unclear if the applicant is referring to the hub set forth above or is attempting to set forth another hub in addition to the one set forth above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frankel in view of Funk. Frankel discloses a rotary shelf assembly mechanism comprising post means 18 and 29, first and second mounting brackets 32 and 24 spaced apart from and opposing each other supporting the post means, at least one single piece shelf 54 connected to the post, each of the at least one single piece shelves having an integral post securing section including a hub 48, a first post 18, a

second post 29, elongated recess 31, the first post having an aperture (not numbered, but seen in figure 3) and a mating element 33. Frankel is silent concerning, *inter alia*, post pin receiving apertures.

However, Funk discloses a shelf assembly mechanism comprising a post 1 having pin receiving apertures 5, a post securing section including a hub 2 and a pin receiving indent (not numbered, but comprising the holes within the hub) within the hub, and a pin 6 extending through the post pin receiving apertures and cooperatively received by the post securing section indents to secure at least one shelf to the post means.

It would have been obvious to one of ordinary skill in the art to provide Frankel with an attachment mechanism, taught by Funk, to more easily and securely attach the shelves to the posts.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 703-305-3979. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 703-308-2686. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3597 for regular communications and 703-305-3597 for After Final communications.

Application/Control Number: 09/740,554
Art Unit: 3634

Page 5

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.

A handwritten signature in black ink, reading "Gregory J. Strimbu". The signature is written in a cursive style with a large, looping initial "G" and a long horizontal stroke at the end.

Gregory J. Strimbu
Primary Examiner
Art Unit 3634
August 26, 2002